

## TOWN OF SURRY, VIRGINIA

### ZONING ORDINANCE

Whereas, by act of the General Assembly of Virginia, as provided in Chapter 22, Article 7, Sections 15.2-2280 through 15.2-2316, code of Virginia and amendments thereto, the governing body of any municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

- (a) the use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, flood plain, and other specific uses;
- (b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
- (c) The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and
- (d) The excavation of mining of soil or other natural resources.

Therefore, be it ordained by the Town Council of Surry, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Section 15.2-2280, that the following be adopted as the zoning ordinance of Surry, Virginia, together with the accompanying map. This ordinance has been designed (1) to provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers; (2) to reduce or prevent congestion in the public streets; (3) to facilitate the creation of a convenient, attractive and harmonious community; (4) to facilitate the provision of adequate police and fire protection, disaster evacuation, civic defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (5) to protect against destruction of or encroachment upon historic areas; (6) to protect against one or more of the following; overcrowding of land, undue density of population in relation to the community facilities existing or available,

obstruction of light and air, danger, and congestion in travel transportation, or loss of life, health, or property from fire flood, panic or other dangers; (7) to encourage economic development activities that provide desirable employment and enlarge the tax base; (8) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (9) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (10) to promote affordable housing; and (11) to protect surface water and groundwater.

## **ARTICLE 1 – DEFINITIONS**

For the purpose of this ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

1-1      **ACCEESSORY USE OR BUILDING:** A subordinate use or building customarily incidental to and located upon the same lot occupied by the main use or building. No such accessory building shall be used for housekeeping purposes.

1-2      **ADMINISTRATOR, THE:** The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.

1-3      **AGRICULTURE:** The tilling of the soil, the raising of crops, horticulture, forestry, and gardening.

1-4      **AGRICULTURAL LANDS:** Those lands used for the planting and harvesting of crops or plant growth of any kind in the open; pasture; horticulture; dairying; floriculture; or raising of poultry and/or livestock.

1-5      **ALTERATION:** Any change in the total floor area, use, adaptability, or external appearance of an existing structure.

1-6      **APARTMENT HOUSE:** A building used or intended to be used as the residence of three (3) or more families living independently of each other.

1-7      **BASEMENT:** A story having part but not more than one-half (1/2) of its height below grade. A basement shall be counted as a story for purpose of height regulations, if it is used for business purposes, or for dwelling purposes by other than a janitor employed on the premises.

1-8 BEST MANAGEMENT PRACTICES (BMPs): a practice, or combination or practices, determined by a state or designated area- wide planning agency to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

1-9 BOARDING HOUSE: A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.

1-10 BUILDING: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.

1-11 BUILDING, HEIGHT OF: The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a float roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. For buildings set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.

1-12 BUILDING, MAIN: The principal structure or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot.

1-13 CALIPER: The diameter, in inches, of a tree trunk measured six inches above ground level for nursery stock.

1-14 CELLAR: A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.

1-15 CHESAPEAKE BAY PRESERVATION AREA (CBPA): Any land designated by the Town of Surry pursuant to Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9VA10-20-10 et seq. and Section 10.1-2107 of the Code of Virginia. A Chesapeake Bay Preservation Area (CBPA) shall consist of a Resource Protection Area (RPA) and a Resource Management Area (RMA).

1-16 CHESAPEAKE BAY PRESERVATION COMMITTEE (CBPC): The Committee charged with the enforcement of Article 6 of this zoning ordinance, Chesapeake Bay Preservation District. The Committee consists of two members, who may be any appointed or elected officials who are by formal resolution designated to the positions by the Town Council.

1-17 COMMISSION, THE: The Planning Commission of Surry, Virginia

1-18 CONDITIONAL USE: A use listed as such in this Ordinance and which may be permitted in a specified district under certain conditions, such

conditions to be determined in each case by the terms of this Ordinance and by the Town Council of Surry, Virginia after public hearing and report by the Planning Commission in accordance with the procedures specified by this Ordinance and applicable state law.

1-19 CONSTRUCTION FOOTPRINT: The area of all impervious surfaces, including by not limited to, buildings, roads, and drives, parking areas, and sidewalks, and the area necessary for construction of such improvements.

1-20 DEVELOPMENT: The construction, or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.

1-21 DIAMETER AT BREAST HEIGHT (DBH): The diameter of a tree measured outside the bark at a point 4.5 feet above ground.

1-22 DISTRICT: Any section of the Town of Surry in which the zoning regulations are uniform and so designated on the Zoning District Map.

1-23 DWELLING: Any structure which is designated for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, automobile trailers, and mobile homes.

1-24 DWELLING, MULTIPLE-FAMILY: A structure arranged or designed to be occupied by more than one (1) family.

1-25 DWELLING, TWO-FAMILY: A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.

1-26 DWELLING, SINGLE-FAMILY: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.

1-27 DWELLING UNIT: One (1) or more rooms in a dwelling designed for living or sleeping purposes, and having at least one (1) kitchen.

1-28 DRIPLINE: A vertical projection to the ground surface from the farthest lateral extent of a tree's leaf canopy.

1-29 FAMILY: One (1) or more persons occupying a premise and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home, or hotel.

1-30 FAMILY CARE HOME, FOSTER HOME OR GROUP HOME: A residential structure established to serve mentally retarded or other developmentally disabled persons, not related by blood or marriage.

1-31 FRONTAGE: The minimum width of a lot measured from one (1) side lot line to the other along a straight line on which no point shall be farther

away from the street upon which the lot fronts than the building setback line, as defined as required herein.

1-32 GARAGE, PRIVATE: Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1 ½) times as many automobiles as there are dwelling units.

1-33 GARAGE, PUBLIC: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or storing motor-driven vehicles.

1-34 GOVERNING BODY: The Town Council of Surry, Virginia

1-35 HIGHLY ERODIBLE SOILS: Soils (excluding vegetation) with an erodibility index (ER) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS/T$ . K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope, length and steepness; and T is the solid loss tolerance.

1-36 HIGHLY PERMEABLE SOILS: Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups, "rapid" and "very rapid"), as found in the "National Soil Survey Handbook" of November 1996, in the "Field Office Technical Guide" of the U. S. Department of Agriculture Soil Conservation Service.

1-37 HISTORIC AREA: An area indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage.

1-38 HOME OCCUPATION: An occupation carried on the by the occupant of a dwelling as a secondary use in connection with which there is no display and where no one is employed other than members of the family residing on the premises, such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities; professional offices such as medical, dental, legal, engineering, and architectural conducted within a dwelling by the occupant.

1-39 HYDRIC SOIL: Soils that are saturated , flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part, which are saturated for us ally one week or more during the growing period and have the capacity to support hydrophytic vegetation.

1-40 IMPERVIOUS COVER: A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

1-41 LAND DISTURBANCE/LAND DISTURBING ACTIVITY: Refer to Section 4.10 and Section 5 of the Soil Erosion and Sediment Control Ordinance of the County of Surry.

1-42 LOT: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

1-43 LOT, CORNER: A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets.

1-44 LOT, DEPTH OF: The average horizontal distance between the front and rear lot lines.

1-45 LOT, DOUBLE FRONTAGE: An interior lot having frontage on two (2) streets.

1-46 LOT, INTERION: Any lot other than a corner lot.

1-47 LOT, WIDTH: Shall mean the width of any lot at the setback line. Calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, then the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the said curve or angle setback line.

1-48 LOT OF RECORD: A lot which has been recorded in the clerk's office of the circuit court.

1-49 MANUFACTURER AND/OR MANUFACTURING: The processing and/or converting of raw unfinished materials, or products, or either of them into articles or substances of different character, or for use for a different purpose.

1-50 MANUFACTURED HOUSING/MOBILE HOME: A structure intended for human habitation that is subject to federal regulation, is transportable in one or more sections, is eight (8) feet, or more in width or forty (40) feet or more in length, or when erected is three hundred twenty (320) square feet or more in area. Such a structure is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, connected

to the required utilities and containing plumbing, heating, air conditioning and electrical systems. All such homes constructed since 1976 have been required to conform to the National Manufactured Housing Construction and Safety Standards Act of 1974. The term “mobile home”, once widely used to describe transportable housing units, has been replaced in the Virginia Code by the term “manufactured housing”. See Code of Virginia, Section 36-85.2 et seq.

1-51    **MANUFACTURED HOUSING/MOBILE HOME PARK:** Any site, lot, field, or tract of land upon which are located two (2) or more manufactured housing lots.

1-52    **MANUFACTURED HOUSING/MOBILE HOME LOT:** The unit of land used or intended to be used by one (1) manufactured housing unit, whether in a manufactured housing park or not.

1-53    **MODULAR HOME:** A modular home is a building assembly or system of building sub-assemblies, including the necessary electrical, plumbing, heating, ventilating, or other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as a part of a finished building comprising two (2) or more industrialized building units and not designed for ready removal to, or installation or erection on, another site.

1-54    **NONCONFORMING LOT:** An otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

1-55    **NONCONFORMING ACTIVITY:** The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance, or as a result of subsequent amendments to the ordinance.

1-56    **NONCONFORMING STRUCTURE:** An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.

1-57    **NONPOINT SOURCE POLLUTION:** Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development and

use.

1-58 NONTIDAL WETLANDS: Those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U. S. Environmental Protection Agency, pursuant to Section 404 of the federal Clean Water Act, as amended.

1-59 NOXIOUS WEEDS: Weeds that are difficult to control effectively, such as Johnson Grass, Kudzu, and Multiflora Rose.

1-60 OFF-STREET PARKING AREA: Space provided for vehicular parking outside the dedicated street right-o-way.

1-61 PLAN OF DEVELOPMENT: The process for site plan or subdivision plat review to ensure compliance with Section 10.1-21009 of the Code of Virginia (Chesapeake Bay Preservation Act) and this Ordinance, prior to any clearing or grading of a site or the issuance of a building permit.

1-62 PUBLIC ROAD: As used only in accordance with Article 6, a public road is a publicly-owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Section 10.1-560 et seq. of the Code of Virginia (ii) the Virginia Stormwater Management Act (Section 10.1-603 et seq. of the Code of Virginia ). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where secondary roads are constructed or maintained, or both, by the Town of Surry in accordance with local standards.

1-63 PUBLIC WATER AND SEWER SYSTEMS: A water or sewer system owned and operated by the Town of Surry, or owned and operated by private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.

1-64 RECREATIONAL VEHICLES: Vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use. There are four (4) basic types of recreational vehicles – travel trailers, motor homes, truck campers, and camping trailers.

1-65 REDEVELOPMENT: the process of developing land that is or has been previously developed.

1-66 REQUIRED OPEN SPACE: Any space required in any front, side, or



rear yard.

1-67 RESOURCE MANAGEMENT AREA (RMA): That component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area. RMS's include land types that, if improperly used or developed, have the potential for causing significant water quality degradation or for diminishing the functional value of the Resource Protection Area.

1-68 RESOURCE PROTECTION AREA (RPA): that component of the Chesapeake Bay Preservation Area comprised of lands adjacent to water bodies with perennial flow shoreline that have an intrinsic water quality value due to the ecological and biological processes they perform, or are sensitive to impacts which may result in significant degradation to the quality of state waters.

1-69 RESOURCE PROTECTION AREA (RPA) BUFFER: A 100-foot wide area of existing or established vegetation within the RPA that protects other components of the RPA and state water from significant degradation associated with land disturbances.

1-70 RESOURCE MANAGEMENT AREA DELINEATOR (RMA DELINEATOR): A person trained in wetland ecology, botany, agronomy, hydrology and/or related fields with experience delineating tidal and nontidal wetlands.

1-71 RESTAURANT: Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms confectionery shops, or refreshment stands.

1-72 RETAIL STORES AND SHOPS: Buildings for display and sale of merchandise at retail or for the rendering of personal services ( but specifically exclusive of coal, wood, and lumber yards) such as the following, which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods, and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.

1-73 SETBACK: The minimum distance by which any building or structure must be separated from the front lot line.

1-74 SIGN: Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, by any means whereby the same are made visible for the purpose of making anything known where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the

ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A display of less than one (1) square foot in area is excluded from this definition.

1-74-1 Business. A sign which directs attention to a product, commodity, or service available on the premises.

1-74-2 Home Occupation. A sign not exceeding four (4) square feet in area directing attention to a product, commodity, or service available on the premises, but which product, commodity or service is clearly a secondary guise of the dwelling.

1-74-3 General Advertising. A sign which directs to a product, commodity, or service not necessarily available on the premises.

1-74-4 Location. A sign which directs attention to the approximate location of an establishment from which the advertised product may be obtained.

1-74-5 Directional. A directional sign is one (1) (one end of which may be pointed, or on which an arrow may be painted) indicating the direction to which attention is called, four (4) square feet or less in area, giving the name only of the farm or business responsible for the erection of same.

1-74-6 Identification. One (1) sign, not exceeding sixteen (16) square feet in area, for the purpose of showing the name and use of a convent, monastery, seminary, subdivision, church, country club, sanitarium, cemetery, children's home, orphanage, fraternal organization, hospital, or other similar establishment, when such use is permitted in a residence zone as specified in this article and such sign is erected or displayed on the property as identified.

1-75 SIGN STRUCTURE: Includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign.

1-76 SIGN, TEMPORARY: A sign applying to a seasonal or other brief activity such as, but not limited to, summer camps, horse show, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.

1-77 "Silvicultural activities" means forest management activities, including but not limited to the harvesting of timber, the construction of roads and trails for forest management purposes, and the preparation of property for reforestation that are conducted in accordance with the silvicultural best management practices developed and enforced by the State Forester pursuant to Section 10.1-1105 of the Code of Virginia and are located on property defined as real estate devoted to forest use under

Section 58.1-3230 of the Code of Virginia.

1-78 "Substantial alteration" means expansion or modification of a building or development that would result in a disturbance of land exceeding an area of 2,500 square feet in the Resource Management Area only.

1-79 STORY: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.

1-80 NONE

1-81 NONE

1-82 STREET LINE: The dividing line between a street or road right-of-way and the contiguous property.

1-83 STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.

1-84 TIDAL SHORE OR SHORE: Land contiguous to a tidal body of water between the mean low water level and mean high water level.

1-85 TIDAL WETLANDS: The vegetated and nonvegetated wetlands as defined in Section 28.2-1300 of the Code of Virginia.

1-86 TOURIST COURT, AUTO COURT, MOTEL, CABINS, OR MOTOR LODGE: One (1) or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

1-87 TOURIST HOME: A dwelling where only lodging is provided for compensation for up to fourteen (14) persons (in contradistinction to hotels and boarding houses) and open to transients.

1-88 USE, ACCESSORY: A subordinate use customarily incidental to and located upon the same lot occupied by the main use.

1-89 VARIANCE: A variance is a reasonable deviation from those provisions regulating the size or area of a lot or parcel of land or the size, area, bulk, or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the

intended spirit and purpose of the ordinance, and would result in substantial justice being done.

1-90    **WATER-DEPENDENT FACILITY:** A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, and storm sewers; (iii) marinas and other boat docking structures; and; (iv) beaches and other public water -oriented recreation areas; and (v) fisheries and other marine resource facilities.

1-91    **WAYSIDE STAND, ROADSIDE STAND, WAYSIDE MARKET:** Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.

1-92    **WETLANDS:** All tidal and nontidal wetlands.

1-93    **YARD:** An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

1-93-1    **Front:** An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

1-93-2    **Rear:** An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

1-93-3    **Side:** an open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

## **DISTRICTS**

For the purpose of this ordinance, the incorporated area of Surry, Virginia, is hereby divided into the following districts:

Low Density Residential R-1  
Medium Density Residential R-2  
High Density Residential R-3  
Commercial C-1

## **ARTICLE 2 – LOW DENSITY RESIDENTIAL DISTRICT R-1**

### **Statement of Intent**

The regulations for this district are designed to stabilize and protect the

essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration; and permitted uses are limited basically to single-unit dwellings providing homes for the residents, plus certain additional uses, such as school, parks, churches, and certain public facilities that serve the residents of the district.

## 2-1 USE REGULATIONS

In Low Density Residential District R-1, structures to be erected or land to be used shall be for one (1) or more of the following uses:

2-1-1 Agriculture

2-1-2 Single-family dwellings.

2-1-3 Family care home, foster home, or group home

2-1-4 Schools, public and private

2-1-5 Churches

2-1-6 Parks and playgrounds

2-1-7 Home occupation

2-1-8 Off-street parking as required by this ordinance

2-1-9 Accessory buildings permitted as defined; however, garages or other accessory structures such as carports, porches, and stoops attached to the main building shall be considered part of the main building. No necessary building may be closer than three (3) feet to any property line.

2-1-10 Public utilities: poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. Transmission lines, transmission towers, and electrical substations are not deemed necessary facilities under this section.

2-1-11 Church bulletin boards and church identification signs for church activities only.

2-1-12 Home occupation signs.

2-1-13 Real estate signs.

2-1-14 Temporary signs.

2-1-15 Government offices.

## 2-2 AREA REGULATIONS

For lots containing or intended to contain a single permitted use served by public water and sewer, the minimum lot area shall be thirty-two thousand and six hundred seventy (32,670) square feet or three-fourth of an acre.

## 2-3 SETBACK REGULATIONS

Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line”.

## 2-4 FRONTAGE REGULATIONS

For permitted uses the minimum lot width at the setback line shall be two hundred (200) feet or more.

## 2-5 YARD REGULATIONS

2-5-1 Side – The minimum side yard for each main structure shall be ten (10) feet.

2-5-2 Rear – Each main structure shall have a rear yard of twenty-five (25) feet.

## 2-6 HEIGHT REGULATIONS

2-6-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

2-6-2 Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

## 2-7 SPECIAL PROVISIONS FOR CORNER LOTS

2-7-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets.

2-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

## ARTICLE 3 – MEDIUM DENSITY RESIDENTIAL DISTRICT R-2

### Statement of Intent

The purpose of this district is to provide for single-family residential development of relatively spacious character together with such public buildings, courthouses, churches, public recreational facilities and accessory uses, as may be necessary or are normally compatible with residential surroundings. The district is located to protect existing development of high character and contains vacant land considered for such development in the future.

#### 3-1 USE REGULATIONS

In medium Density Residential District R-2, structures to be erected or land to be used shall be for the following uses:

- 3-1-1 All uses permitted in R-1 district.
- 3-1-2 Off-street parking as required by this ordinance.
- 3-1-3 Accessory buildings permitted as defined; however, garages or other accessory structures such as carports, porches, and stoops attached to the main building. No accessory building may be closer than three (3) feet to any property line.
- 3-1-4 Public utilities; poles, distribution lines, distribution transformers, pipes, meter, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. Transmission lines, transmission towers, and electrical substations are not deemed necessary facilities under this section.
- 3-1-5 Signs in accordance with this ordinance.

#### 3-2 AREA REGULATIONS

For lots containing or intended to contain a single permitted use served by public waste and sewer, the minimum lot area shall be twenty thousand (20,000) square feet.

#### 3-3 SETBACK REGULATIONS

Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the “setback line”.

### 3-4 FRONTAGE REGULATIONS

For permitted uses the minimum lot width at the setback line shall be one hundred (100) feet or more.

### 3-5 YARD REGULATIONS

3-5-1 Side – The minimum side yard for each main structure shall be ten (10) feet.

3-5-2 Rear – Each main structure shall have a rear yard of twenty-five (25) feet.

### 3-6 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

3-6-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

3-6-2 Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (40) feet above the height of the building on which the walls rest.

### 3-7 SPECIAL PROVISIONS FOR CORNER LOTS

3-7-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets

3-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

## ARTICLE 4 – HIGH DENSITY RESIDENTIAL DISTRICT R-3

### Statement of Intent

This district is composed of certain high concentrations of residential uses ordinarily located between medium density residential and commercial areas. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage, insofar as compatible with the intensity of land use, affordable housing development, and to permit certain public uses of a character unlikely to develop general concentrations of traffic and crowds of customers. All



residential types of structures for permanent occupancy are permitted.

#### 4-1 USE REGULATIONS

In Residential District R-3, structures to be erected or land to be used shall be for the following uses:

- 4-1-1 All uses permitted in R-2 district.
- 4-1-2 Multi-family dwellings
- 4-1-3 Manufactured Housing
- 4-1-4 Off-street parking as required by this ordinance.
- 4-1-5 Signs in accordance with this ordinance.

#### 4-1 AREA REGULATIONS

- 4-2-1 For lots containing or intended to contain a single permitted use served by public water and sewer, the minimum lot area shall be twenty thousand (20,000) square feet.
- 4-2-2 For lots containing a multi-family dwelling unit served by public water and sewage disposal, the minimum lot area shall be twenty thousand (20,000) square feet plus two thousand (2,000) square feet for each additional dwelling unit.
- 4-2-3 For lots containing a manufactured housing unit served by public water and sewage disposal, the minimum lot area shall be twenty thousand (20,000) square feet.
- 4-2-4 For lots containing a manufactured housing park served by public water and sewage disposal, the minimum lot area shall be eight thousand (8,000) square feet for each manufactured housing unit contained in the park.

#### 4-3 SETBACK REGULATIONS

Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as "setback line".

For manufactured housing parks, each manufactured housing unit shall be located at least 300 feet from the center line of any street right-of-way on which the manufactured housing park is located.

#### 4-4 FRONTAGE REGULATIONS

For permitted uses the minimum lot width at the setback line shall be one hundred (100) feet or more; and for each additional dwelling unit or permitted use, there shall be at least ten (10) feet of additional lot width at the setback line.

#### 4-5 YARD REGULATIONS

4-5-1 Side – The minimum side yard for each main structure shall be ten (10) feet.

4-5-2 Rear - Each main structure shall have a rear yard of twenty-five (25) feet.

#### 4-6 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

4-6-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

4-6-2 Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerals are exempt. Parapet walls may be up to four (40 feet above the height of the building on which the walls rest.

#### 4-7 SPECIAL PROVISIONS FOR CORNER LOTS

4-7-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shorter of the two (2) sides fronting on streets

4-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory buildings.

#### 4-8 SPECIAL PROVISIONS FOR MANUFACTURED HOUSING

4-8-1 Manufactured Housing Stand. Each manufactured housing unit shall be placed on a Town approved manufactured housing stand, defined for the purpose of this article as an area which has been reserved for the placement of manufactured housing.

4-8-2 Skirting. Each manufactured housing unit shall have town approved skirting around its perimeter to screen its wheels, and undercarriage. Skirting must be installed within ninety (90) days after occupancy of the unit.

- 4-8-3 Screening. Fences, walls, or vegetative screening shall be provided where needed along the edges of manufactured housing park to protect residences from undesirable views, lighting, noise or other off-street influences.
- 4-8-4 Streets. Private streets may be permitted in a manufactured housing park, provided that the streets area a minimum of 40 feet in width and have an all weather surface of a minimum of 20 feet in width, and are approved by the Town, and provided that adequate provisions are made for the maintenance of said streets.

## ARTICLE 5 – COMMERCIAL DISTRICT C-1

### Statement of Intent

This district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access and is characterized by constant traffic and by noise of congestion of people and passenger vehicles., For certain high intensity commercial use, the governing body requires a conditional use permit application. The governing body may request a recommendation from the planning commission concerning such use applications. In approving any such application, the governing body may establish such special requirements and regulations for the protection of adjacent property, set hours of operation, and make requirements as deemed necessary for public interest. This is known as a conditional use permit.

#### 5-1 GENERAL PERMITTED USE

In Commercial District C-1, structures to be erected or land to be used for one (1) or more of the following uses:

- 5-1-1 Antique and gift shops
- 5-1-2 Bakeries
- 5-1-3 Churches
- 5-1-4 Clubs and lodges
- 5-1-5 Drug Stores

- 5-1-6 Dry Cleaners
- 5-1-7 Financial institutions
- 5-1-8 Furniture refinishing and repairs, including upholstering, cabinet and furniture making.
- 5-1-9 Furniture stores
- 5-1-10 Home appliance sales and service
- 5-1-11 Laundries
- 5-1-12 Libraries
- 5-1-13 Office building, including government offices
- 5-1-14 Plumbing and electrical supply (with storage under cover).
- 5-1-15 Public utilities
- 5-1-16 Tourist homes
- 5-1-17 Off-street parking as required by this ordinance.
- 5-1-18 Directional signs
- 5-1-19 Church bulletin boards and church identification signs for church activities.
- 5-1-20 Beauty salons/Barber shops
- 5-1-21 Photographic studios
- 5-1-22 Retail sales (04082008)

5-2 CONDITIONAL USE PERMIT REQUIRED

A conditional use permit will be required for structures to be erected or land to be used for one (1) or more of the following uses:

- 5-2-1 Animal hospital or clinic.
- 5-2-2 Apartments.
- 5-2-3 Automobile or truck sales, service and repair, including body or fender repair, but not auto salvage or junk
- 5-2-4 Car wash
- 5-2-5 Drive-in restaurants and food sales.

- 5-2-6 Farm supply, feed and seed store (with storage under cover).
- 5-2-7 Funeral homes
- 5-2-8 Hospitals, general
- 5-2-9 Hotels, motels, and inns
- 5-2-10 Laundromats
- 5-2-11 Lumber and building supply (with storage under cover)
- 5-2-12 Machinery sales and service
- 5-2-13 Restaurants
- 5-2-14 Retail food stores
- 5-2-15 Service stations (with major auto repair under cover)
- 5-2-16 Theaters, assembly halls
- 5-2-17 Wholesale and processing facilities not objectionable due to dirt, noise, or odors.
- 5-2-18 Public billiard parlors/pool rooms, bowling alleys, dance halls and similar forms of public amusement
- 5-2-19 Business signs

#### 5-3 AREA REGULATIONS

None, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

#### 5-4 SETBACK REGULATIONS

Buildings shall be located ten (10) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or thirty-five (35) feet or more from the center of any street right-of-way less than fifty (50) feet in width, except that signs advertising sale or rent of premises may be erected up to the property line.. This shall be known as “setback line”.

#### 5-5 FRONTAGE AND YARD REGULATIONS

For permitted uses, the minimum side yard or rear yard adjoining or adjacent to a residential district shall be twenty-five (25) feet.

#### 5-6 HEIGHT REGULATIONS

Building may be erected up to thirty-five (35) feet in height from grade except that:

5-6-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

5-6-2 Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flag poles, television antennae and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

#### 5-7 REQUIREMENT FOR PERMITTED USES

Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, a site plan, as required by Section 6-4-7 by this ordinance, containing sufficient detail to show the operations and processes shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for their recommendations. Modifications of the plans may be required.

#### **5-8: TEMPORARY CONDITIONAL USE PERMIT**

A Temporary Conditional Use Permit may be approved by the Town Council with a certain set of conditions and for a specified time limit. The Council will have right of inspections and updates during the time specified in the Permit. The Temporary Conditional Use Permit will expire on the date set by the Council.

Council reserves the right to cancel the Temporary Conditional Use Permit if conditions of the permit are not being followed.

Council, also, reserves the right to extend the Temporary Conditional Use Permit to the same applicant if conditions are warranted and may extend the Temporary Conditional Use Permit under different conditions. (07122011)

## ARTICLE 6 – CHESAPEAKE BAY PRESERVATION DISTRICT-CB

### 6-1 PURPOSE OF AN AUTHORITY FOR THIS DISTRICT

The Chesapeake Bay and its tributaries are one of the most important and productive estuarine systems in the world, providing economic and social benefits to the citizens of Surry and the Commonwealth of Virginia. The health of the Bay is vital to maintaining the Town of Surry's economy and the welfare of its citizens.

The Chesapeake Bay waters have been degraded significantly by many sources of pollution, including nonpoint source pollution from land uses and development. Existing high quality waters are worthy of protection from degradation to guard against further pollution. Certain lands that are proximate to shorelines have intrinsic water quality value due to the ecological and biological processes they perform. Other lands have severe development constraints from flooding, erosion, and soil limitations. With proper management, they offer significant ecological benefits by providing water quality maintenance and pollution control, as well as flood and shoreline erosion control. These lands together, designated by Town Council as Chesapeake Bay Preservation Areas ("CBPAs"), need to be protected from destruction and damage in order to protect the quality of water in the Bay and, consequently, the quality of life in the Town of Surry and the Commonwealth of Virginia.

It is the purpose of this Article, adopted under the authority of Sections 10.1-2108, 10.1-2111 and 15.2-2283 of the Code of Virginia, to support the goals and objectives of the Chesapeake Bay Preservation Act and the Town of Surry Comprehensive Plan by protecting and improving the water quality of the Chesapeake Bay, its tributaries, buffer areas, and other sensitive environmental lands by minimizing the potential adverse effect of human activity upon these areas. The intent of this Article is to:

- protect existing high quality state waters;
- restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them;
- safeguard the clean waters of the Commonwealth from pollution;

- reduce existing pollution;
- promote water resource conservation in order to comply with the requirements of the Chesapeake Bay Preservation Act.



The requirements contained herein establish the means to minimize erosion and sedimentation potential, reduce land application of nutrients and toxins, and maximize rainwater infiltration within the Chesapeake Bay Preservation Areas. Natural ground cover, especially woody vegetation, is most effective in holding soil in place and preventing site erosion. Indigenous vegetation, with its adaptability to local conditions without the use of harmful fertilizers or pesticides, filters storm water runoff. Minimizing impervious cover enhances rainwater infiltration and effectively reduces storm water runoff potential.

Additionally, these regulations are intended to prevent a net increase in nonpoint source pollution from new development, achieve a ten percent (10%) reduction in nonpoint source pollution from redevelopment, and achieve a forty percent (40%) reduction in nonpoint source pollution from agricultural use.

## 6-2 APPLICATION OF THE DISTRICT

The CB Chesapeake Bay Preservation District is created as a special district to be superimposed on other zoning districts which are located within the Town of Surry. The CB Chesapeake Bay Preservation District is further delineated as Resource Protection Areas (RPAs) and Resource Management Areas (RMAs). The requirements of this Article shall apply to all lands identified as RPAs and RMSs on maps adopted by the Town Council on file in the Surry Town Office.

### 6-2-1 The RPAs include:

- 1) Tidal wetlands;
- 2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- 3) Tidal shores;
- 4) Such other lands considered by the Town of Surry to meet the provisions of this section and to be necessary to protect the quality of state waters; and
- 5) A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivisions 1 through 4 above, and along both sides of any water body with perennial flow. The full buffer area shall be designated as the landward component of the Resource Protection Area notwithstanding the presence of permitted uses, encroachments, and permitted vegetation clearing in compliance with the provisions of this article.

#### 6-2-1-1 SITE-SPECIFIC REFINEMENT OF CHESAPEAKE PAY PRESERVATION AREA BOUNDARIES

The Town of Surry shall, as part of their plan-of-development review process pursuant to Section 6-4-1 of this ordinance or during their review of water quality impact assessment pursuant to Section 6-4-6 of this ordinance, ensure or confirm that (i) a reliable, site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow, and (ii) Resource Protection Area boundaries are adjusted, as necessary, on the site, based on this evaluation of the site. The Town of Surry may accomplish this by either conducting the site evaluations themselves or requiring the person applying to use or develop the site to conduct the evaluation and submit the required information for review.

#### 6-2-1-2 DEVELOPMENT CRITERIA FOR RESOURCE PROTECTION AREAS

- A. Development within Resource Protection Areas may be allowed only when permitted by Town Council and if it (i) is water-dependent; or (ii) constitutes redevelopment; (iii) is a public road constructed by VDOT; (iv) is a flood control or storm water management facility as noted in the Virginia Stormwater Management Handbook.
  - (1) A water quality impact assessment as outlined in Section 6-4-6 of this ordinance shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Town Council because of the unique characteristics of the site or intensity of development, in accordance with the provisions of Section 6-4-6 of this ordinance.
  - (2) A new or expanded water dependent facility may be allowed provided that the following criteria are met:
    - a. It does not conflict with the comprehensive plan;
    - b. It complies with the performance criteria set forth in Section 6-4-6 of this ordinance;
    - c. Any nonwater-dependent component is located outside of the RPA; and
    - d. Access to the water-dependent facility will be provided with the

minimum disturbance necessary. Where practicable, a single point of access will be provided.

- (3) Roads and driveways not exempt under Section 6-8 and which, therefore, must comply with the provisions of this ordinance, may be constructed in or across RPAs if each of the following conditions are met:
- a. The Town Council makes a finding that there are no reasonable alternatives to aligning the road or drive in or across the RPA;
  - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
  - c. The design and construction of the road or driveway satisfy all applicable criteria of this ordinance;
  - d. The Town Council reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under the Town of Surry's subdivision plan.
- (4) Flood control and storm water management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in the RPA provided that the following conditions are met:
- a. The Town of Surry has conclusively established that the location of the facility within the RPA is the optimum location;
  - b. The size of the facility is the minimum necessary to provide necessary flood control, storm water management, or both;
  - c. The facility is consistent with the Town of Surry's approved storm water management program.
  - d. All applicable permits for construction have been obtained from the appropriate state and federal agencies;
  - e. The Town of Surry has approved the project prior to construction; and

- f. Routine maintenance will be performed to assure that these facilities continue to perform as designed.

B. A water quality impact assessment as outlined in Section 6-4-6 of this ordinance shall be required for any proposed land disturbance, development or redevelopment within Resource Protection Areas and for any other development within Resource Management Areas when required by the Town Council because of the unique characteristics of the site or intensity of development, in accordance with the performance standards in Section 6-4-6 of this ordinance.

C. Buffer Area Requirements

To minimize the adverse effects of human activities on the other components of Resource Protection Areas (RPA), state waters, and aquatic life, a 100-foot wide buffer area of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. The buffer area shall be located adjacent to and landward of other RPA components and along both sides of any water body with perennial flow. The 100-foot full buffer area shall be designated as the landward component of the Resource Protection Area, in accordance with Sections 6-2-1 (RPA) and 6-4-1 (Plan of Development) of this Article. Notwithstanding permitted uses, encroachments, and vegetation clearing, as set forth in this section, the 100-foot buffer area is not reduced in width. The 100-foot buffer area shall be deemed to achieve a 75 percent reduction of sediments and a 40 percent reduction of nutrients.

(1) Permitted modifications to the buffer area.

In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only, subject to approval by the Town of Surry, to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of storm water, as follows:

1. Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.

2. Any path shall be constructed and surfaced so as to effectively control erosion.
3. Dead, diseased, or dying trees or shrubbery and noxious weeds (such as Johnson grass, kudzu and multiflora rose) may be removed and thinning of trees allowed as permitted by the Town of Surry pursuant to sound horticultural practices.
4. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

(2) Permitted encroachments into the buffer area.

- a. When the application of the buffer areas would result in the loss of a buildable area on a lot or parcel recorded prior to October 1, 1989, the Town of Surry may, through an administrative process, permit encroachments into the buffer area in accordance with Section 6-4-1 (Plan of Development) and the following criteria:
  - b. Encroachments into the buffer areas shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
  - c. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel; and
  - d. The encroachment shall not extend into the seaward 50 feet of the buffer area.
- (3) When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the Town of Surry may permit

encroachments into the buffer area in accordance with Section 6-4-1 (Plan of Development) and the following criteria:



- a. The lot or parcel was created as a result of a legal process conducted in conformity with the local government's subdivision regulations;
- b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
- c. If the use of a best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
- d. The criteria in subsection 2 above shall be met.

#### 6-2-2 RMA DESIGNATION

#### 6-2-3 RMA OPT-OUT PROVISION

Lots or parcels of record within the RMA may be exempt from the provisions of this Article if they:

- (A) do not possess an RPA feature;
- (B) do not possess an RMA feature which will be disturbed by any proposed land disturbing activity. The RMA features to which this pertains are:
  - (1) the 100-year floodplain;
  - (2) nontidal wetlands not connected by surface flow and contiguous to tidal wetlands; tributary streams or other tidal waters;
  - (3) highly erodible and highly permeable soils, as defined;
  - (4) slopes in excess of 15 percent;
- (C) are not adjacent to a lot which possesses an RPA feature.

An environmental site assessment, as provided for in Section 6-4-2, or a submission of equal sufficiency and deemed acceptable by the Chesapeake Bay Preservation Committee (CBPC), shall be submitted as evidence of the limits of the RMA.

#### 6-3 PERFORMANCE STANDARDS FOR ALL DEVELOPMENT AND REDEVELOPMENT

- 6-3-1 All development and redevelopment shall be subject to applicable provisions of the Subdivision Ordinance and the Zoning Ordinance of the Town of Surry, and the Soil Erosion and Sediment Control of the County and Surry.
- 6-3-2 No more land shall be disturbed than is necessary to provide for the proposed use or development. The construction footprint shall not exceed 60 percent (60%) of the site.
- 6-3-3 All land development shall minimize impervious cover to promote infiltration of storm water into the ground consistent with the present use or development.
- 6-3-4 Indigenous vegetation shall be preserved to the maximum extent practicable consistent with the proposed use or development.
- 6-3-5 For new construction, a public sewer system is required.
- 6-3-6 For any development or redevelopment, storm water runoff shall be controlled by the use of best management practices.
- (A) For development, the post-development nonpoint source pollution runoff load shall not exceed the pre-development load, based on the calculated average land cover for Virginia's Chesapeake Bay watershed;
- (B) For isolated redevelopment sites, the nonpoint source pollution load shall be reduced by at least 10 percent. The Town Council may waive or modify this requirement for redevelopment sites that originally incorporated best management practices for storm water runoff quality control, provided the following provisions are satisfied.
- (1) In no case may the post-development nonpoint source pollution runoff exceed the pre-development load;
- (2) Runoff pollution loads must have been calculated and the BMPs selected for the expressed purpose of controlling nonpoint source pollution;
- (3) If best management practices are structural, evidence shall be provided that facilities are currently in good working order and performing at the design levels of service. The Town Council may require a review of both the original structural design and maintenance plans to verify this provision. A new maintenance

agreement may be required by Town Council to ensure compliance with this Article.

- (C) For redevelopment, both the pre- and post-development loadings shall be calculated as described in Section 6-3-6 (A). However, where the design data is available, the original post-development nonpoint source pollution loadings can be substituted for the existing development loadings,

- (D) For single family dwellings on lots of one acre or greater in size with an impervious surface cover of 16 percent or less, storm water runoff calculations are not required since they are typically characterized by post-development runoff within acceptable ranges.

6-3-7 Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the Town Council, in accordance with this Article and the Subdivision Ordinance of the Town of Surry.

6-3-8 Land upon which agricultural activities are being conducted, including but not limited to crop production, pasture, and dairy and feedlot operations, or lands otherwise defined as agricultural land by the local government, shall have a soil and water quality conservation assessment conducted that evaluates the effectiveness of existing practices pertaining to soil erosion and sediment control, nutrient management, and management of pesticides and, where necessary, results in a plan that outlines additional practices needed to ensure that water quality protection is being accomplished consistent with the Act and this chapter.

- a. Recommendations for additional conservation practices need address only those conservation issues applicable to the tract or field being assessed. Any soil and water quality conservation practices that are recommended as a result of such an assessment and are subsequently implemented with financial assistance from federal or state cost-share programs must be designed, consistent with cost-share practice standards effective in January 1999 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service or the January 2001 edition of the "Virginia Agricultural BMP Manual" of the Virginia Department of Conservation and Recreation, respectively. Unless otherwise specified in this section, general standards pertaining to the various agricultural conservation practices being assessed shall be as follows:

- (1) For erosion and sediment control recommendations, the goal shall be, where feasible, to prevent erosion from exceeding the soil loss tolerance level, referred to as "T", as defined in the "National Soil Survey Handbook" of November 1996 in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service. However, in no case shall erosion exceed the soil loss consistent with an Alternative Conservation Systems,

referred to as an "ACS", as defined in the "Field Office Technical Guide" of the U. S. Department of Agriculture Natural Resource Conservation Service.

- (2) For nutrient management, whenever nutrient management plans are developed, the operator or landowner must provide soil test information, consistent with the Virginia Nutrient Management Training and Certification Regulations (4 VAC 5-15-10 et seq.).

- (3) For pest chemical control, referrals shall be made to the local cooperative extension agent or an Integrated Pest Management Specialist of the Virginia Cooperative Extension Service. Recommendations shall include copies of applicable information from the "Virginia Pest Management Guide" or other Extension materials related to pest control.
- b. A higher priority shall be placed on conducting assessments of agricultural fields and tracts adjacent to Resource Protection Areas. However, if the landowner or operator of such a tract also has Resource Management Area fields or tracts in his operation, the assessment for that landowner or operator may be conducted for all fields or tracts in the operation. When such an expanded assessment is completed, priority must return to Resource Protection Area fields and tracts.
- c. The findings and recommendations of such assessments and any resulting soil and water quality conservation plans will be submitted to the Peanut Soil and Water Conservation District Board, which will be the plan-approving authority.

#### 6-4 SUBMISSION REQUIREMENTS 6-4-1

##### Plan of Development

Any development or redevelopment exceeding 2,500 square feet of land disturbance in the CBPA shall be accompanied through a plan of development process prior to any clearing or grading of the site or the issuance of any building permit, unless the Town Council, with benefit of the review comments of the CBPC, determines that, due to the scope and nature of the proposed development, certain of the required information is unnecessary. The submittal requirements of Sections 6-4-1 to 6-4-6, as required, shall constitute a complete site plan submittal for land disturbance activities associated with individual one-and two-family dwellings. Site plan submission requirements for commercial, industrial and multi-family dwellings shall comply with the submittal requirements of 6-4-1 to 6-4-7. Administration of the plan of development process for other development or redevelopment activities shall be in accordance with this Article for site plans, and the Subdivision Ordinance of the Town of Surry for subdivision plats. The CBPC shall be provided with two (2) sets of plans for compliance with this Article and return a marked up set with recommendations to the Surry Town Council within thirty (30) days. The following plans or studies shall be submitted, unless otherwise provided for, to accompany a site plan or subdivision plat:

#### 6-4-2 ENVIRONMENTAL SITE ASSESSMENT

An environmental site assessment is required for any projects when RPA is located on site or adjacent to the site, and to require the delineation of RPAs on site plans that are submitted through the plan of development process.

An environmental site assessment shall be submitted in conjunction with a preliminary site plan or preliminary subdivision plat approval application.

- (A) The environmental site assessment shall be drawn to scale on the submitted plan of development for one-and two-family dwellings, preliminary site plans and subdivision plats clearly delineating the following components:
  - (1) The 100-year floodplain;
  - (2) Nontidal wetlands not connected by surface flow and contiguous to tidal wetlands, tributary streams or other tidal waters;
  - (3) Slopes greater than 15 percent;
  - (4) Highly erodible, highly permeable, and hydric soils as identified in the soil survey.
- (B) Wetlands delineations shall be performed consistent with the procedures specified in the most current Federal Manual for Identifying and Delineating Jurisdictional Wetlands.
- (C) The environmental site assessment shall be drawn at the same scale as the site plan or subdivision plan, and shall be certified as complete and accurate by the RMA Delineator, or other professional determined to be qualified by the Town Council. This requirement may be waived by the Town Council when the proposed use or development would result in less than 5,000 square feet of disturbed area.

#### 6-4-3 Landscape Plan

A landscape plan, as described below, shall be submitted in conjunction with a site plan or preliminary subdivision plat approval application. No clearing or grading of any lot or parcel shall be permitted without an approved landscape plan. Landscape plans may be required to be prepared and/or certified by design professionals practicing within their areas of competence as prescribed by the Code of Virginia. This submittal is not required for individual one- and

two-family homes if the clearing or grading of the lot is 16 percent or less of the total site area.



(A) Contents of the Plan

- (1) The landscape plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site 12 inches or greater in diameter and five feet above ground shall be shown on the plan, or where there are groups of trees, the wood lines of the group may be outlined instead. The specific number of trees 12 inches or greater DBH to be preserved outside of the impervious cover and outside the groups shall be indicated on the plan. Trees to be removed and wood lines to be changed to create desired and necessary impervious cover shall be clearly delineated on the plan.
- (2) The landscape plan shall depict grade changes or other work adjacent to trees which would affect them adversely. Specifications shall be provided as to how grade, drainage, and aeration would be maintained around trees to be preserved.
- (3) The landscape plan shall include specifications for the protection of existing trees during clearing, grading, and all phases of construction.

(B) Plant Specifications

- (1) All plant materials necessary to supplement the vegetated areas outside the construction footprint shall be installed according to standard planting practices and procedures.
- (2) All supplementary or replacement plant materials shall be living and in healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- (3) Where areas to be preserved, as designated on an approved landscape plan, are encroached, replacement of existing trees and other vegetation will be achieved at a ratio of 2 planted trees to 1 removed. Replacement trees shall be a minimum 2-1/2 inches caliper

measured six (6) inches above the ground at the time of planting.

(C) Maintenance

- (1) The applicants shall be responsible for the maintenance, repair, and replacement of all vegetation as may be required by the provisions of this Article.
- (2) In areas outside of the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from harmful refuse and debris. Unhealthy, dying, or dead plant materials shall be replaced during the next planting season, as required by the provisions of this Article.

6-4-4 Stormwater Management Criteria Consistent with the Water Quality Protection Provisions (4 VAC 3-20-71 et seq.) of the Virginia Stormwater Management Regulations (4 VAC 3-20) Shall Be Satisfied. The Virginia Stormwater Management Handbook as the source for determining engineering calculations, BMPs, pollutant calculations, and other storm water management requirements.

- a. The following storm water management options shall be considered to comply with this subsection of this chapter:
  - (1) Incorporation on the site of best management practices that meet the water quality protection requirements set forth in this subsection. For the purposes of this subsection, the "site" may include multiple projects or properties that are adjacent to one another or lie within the same drainage area where a single best management practice will be utilized by those projects to satisfy water quality protection requirements;
  - (2) Compliance with a locally adopted regional storm water management program, which may include a Virginia Pollution Discharge Elimination System (VPDES) permit issued by the Department of Environmental Quality to a local government for its municipally owned separate storm sewer discharges, that is reviewed and found by the board to achieve water quality protection equivalent to that required by this subsection; and
  - (3) Compliance with a site-specific VPDES permit issued by the Department of Environmental Quality, provided that the local government specifically determines that the permit requires

measures that collectively achieve water quality protection equivalent to that required by this subsection.

b. Any maintenance, alteration, use or improvement to an existing structure that does not degrade the quality of surface water discharge, as determined by the local government, may be exempted from the requirements of this subsection.

c. Stormwater management criteria for redevelopment shall apply to any redevelopment.

- 6-4-5 An erosion and sediment control plan in accordance with the Erosion and Sediment Control Ordinance of the County of Surry.
- 6-4-6 Water Quality Impact Assessment
- (A) A water quality impact assessment is required for:
- (1) Any proposed development or redevelopment within the RPA or RMA when deemed necessary by the Town Council due to the unique characteristics of the site (such as the topography, soils, ground cover, location of wetlands and tidal shores) or the intensity of the proposed development.
- (B) The purpose of the water quality impact assessment is:
- (1) to identify the impacts of proposed development or water quality and lands within environmentally sensitive land areas;
- (2) to ensure that, where development does take place within sensitive land areas, it will be located on those portions of a site and in a manner that will be least disruptive to the natural functions of sensitive land areas;
- (3) to protect individuals from investing funds for improvements proposed for a location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood and storm damage; and to specify mitigation which will address water quality protection.
- (C) The water quality impact assessment shall be certified as complete and accurate by a professional engineer or other individual with demonstrated competence satisfactory to the Town Council.
- (D) A water quality impact must demonstrate through acceptable calculations that the necessary best management practices will result in removal of no less than 75 percent of sediments and 40 percent of nutrients from post-development storm water runoff.

(E) The assessment shall include a site drawing to scale which shows the following:

- (1) The identification of the existing characteristics and conditions of sensitive lands as components of the CBPA, as defined herein;
- (2) The identification of the natural processes and ecological relationships inherent in the site, and an assessment of the impact of the proposed use and development of land on these processes and relationships;
- (3) A hydro geological study which describes the existing topography, soils, hydrology ,and geology on the site and adjacent lands, and indicates the impacts of the proposed development on these features as well as the following: disturbance or destruction of wetlands and justification for such action;

disruptions or reductions in the supply of water to wetlands, streams, lakes, rivers or other bodies of water;

disruptions to existing hydrology, including wetland and stream circulation patterns;

source location and description of proposed fill material;

location of dredge material and location of dumping area for such material;

location of and impacts on shellfish beds, submerged aquatic vegetation, and fish spawning areas;

estimation of pre- and post-development pollutant loads in runoff;  
estimation of percentage increase in impervious surface on site and type(s) of surfacing materials used;

percentage of site to be cleared for project;

anticipated duration and phasing schedule of construction project;

the proposed mitigation measures associated with potential hydro geological impacts which may include minimizing cut and fill, a proposed storm water management system, the creation of wetlands to replace those lots, and the use of erosion and sediment control concepts such as minimizing the extent of cleared areas, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, and the implementation of a comprehensive site inspection program;

a listing of all requisite permits from all applicable agencies necessary to develop the project.

6-4-7, Supplemental Submittal Requirements for Commercial, Industrial, and Multi-Family Site Plans

(A) Preliminary Site Plans

The preliminary site plans shall be clearly drawn to scale as specified below and shall show the following:

- (1) The proposed title of the project, owner or owners of the land, and names of the engineer, architect, designer, or landscape architect, and the developer.
- (2) The north point, scale, and date.
- (3) Location of the project by an insert map at a scale of not less than one inch equals two thousand feet, indicating the scale, the north arrow, and such information as the names and numbers of adjoining roads, streams and bodies of water, railroads, subdivisions, towns, and magisterial districts or other landmarks sufficient to clearly identify the location of the property.
- (4) Existing zoning and zoning district boundaries and proposed changes in zoning, if any.

- (6) Uses of adjoining properties and names of owners.
- (7) Topography of the project area with contour intervals of two feet or less, unless waived by the Town Council as clearly unnecessary for review of the project or proposal.
- (8) The approximate location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures, existing and planned, in or near the project.
- (9) The general location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas, (including numbers of parking and loading spaces), indoor lighting systems, storm drainage and sanitary facilities.
- (10) The general location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.
- (11) Location with respect to each other and to lot lines, number of floors, number of dwelling units and approximate height of all proposed buildings and structures, accessory and main, or major excavations.
- (12) Preliminary plans and elevations of the several dwelling types and other buildings, as may be necessary.
- (13) General location, height, and material of all fences, walls, screen planting, and landscaping.
- (14) General location, character, size, height, and orientation of proposed signs.
- (15) A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross or net, as required by district regulations.

The Town Council may establish additional requirements for preliminary site plans and, in special cases, may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project. Site plans may be prepared on one or more sheets to show clearly the information required by this article and to facilitate the review and approval of the plan. If prepared in more than one sheet, match lines shall indicate where the several sheets join. Each plan sheet shall reserve a blank space three inches wide and five inches high for the use of the approving authority. Site plans shall be prepared to a scale of one inch equals fifty feet, or such other scale as may be approved by the Town Council, as appropriate to a particular case.

#### (B) Final Site Plans

The final site plan shall show the following:

- (1) All of the features required on the preliminary site plan with sufficiently accurate dimensions, construction specifications and computations to support the issuance of construction permits.
- (2) All existing and proposed water and sanitary sewer facilities indicating all pipe sizes, types and grades and where connection is to be made to the Town or other utility system.
- (3) Provisions for the adequate disposition of natural and storm water in accordance with the duly adopted design criteria and standards of the Town of Surry indicating the location, sizes, types and grades of ditches, catch basins and pipes and connections to an existing drainage system. Provision for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading, and construction.
- (4) Existing topography with two-foot contour intervals, or such intervals as approved by the Town Council. Where existing ground is on a slope of less than two percent, either one-foot contours or spot elevations, where necessary, but not more than fifty feet apart in both directions.



(5)Proposed finished grading by contours supplemented where necessary by spot elevations.

(6)All horizontal dimensions shown on the site plan shall be in feet and decimals of a foot to the nearest one hundredth of a foot; and all bearings in degrees, minutes, and seconds to the nearest ten seconds.

(7)All wetland permits required by law and all necessary maintenance agreements ensuring proper maintenance of best management practices must be on file with the Town Council before the final plan is approved.

#### (C) Procedure for Approval of Site Plans

(1) Five copies of a preliminary site plan or plans shall be filed with the Town Council. The preliminary site plan shall be accompanied by such other written or graphic material as may be deemed essential in aiding the decision of the Town Council.

Approval by the Town Council of a preliminary site plan shall be valid for a period of one year. A final site plan shall be prepared and filed with the Town Council and shall comply with the specifications of this Article and applicable laws, regulations, and ordinances governing development of land. Permits shall be issued in accord with the approved and filed plat.

#### (D) Amendments and Additions to Site Plans

The procedure for amendment of approved site plans shall be the same as for a new application, except that minor amendments of an approved site plan may be approved by the Town Council authorizing its Mayor to initial the change on the plan. A change may be made provided it:

- (1) Does not alter a recorded subdivision plat,
- (2) Does not conflict with the specific requirements of this Ordinance,

(E) Revocation of Permits

No permit shall be issued for any structure in any area covered by a site plan under this Article except in conformity to such plan which has been duly approved. Permits may be revoked by the Town after written notice and a hearing, if requested, for failure to comply with the approved plan, the conditions attached thereto, or other applicable regulations.

(F) Approval and Extension

Approval of a final site plan submitted under the provisions of this Article shall expire one year after the date of such approval unless building permits have been obtained for construction in accordance therewith. A single one-year extension may be given upon written request by the applicant to the Town Council within ninety days- before the expiration of the approved site plan. The Town Council shall acknowledge the request and shall make a decision regarding the requested extension within thirty days after receipt of the request.

6-5 INSTALLATION AND BONDING REQUIREMENTS

- 6-5-1 Where landscaping, storm water management facilities or other specifications of an approved plan or plat are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved plan or plat.
- 6-5-2 When the occupancy of a structure is desired prior to the completion of the required landscaping, storm water management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the Town of Surry a form of surety satisfactory to the Town in an amount equal to, the remaining plant materials related materials, and installation costs of the required landscaping or facilities, and/or maintenance costs for any required storm water management facilities during the construction period.
- 6-5-3 All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the Town.

6-5-4 All required storm water management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to the Town; The Town may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.

6-5-5 After all required actions of the approved plan or plat have been completed; the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the Town Council, such unexpected or unobligated portion of the surety held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The Town Council may require a certificate of substantial completion from a professional engineer or Class UM Surveyor before making a final inspection.

## 6-6 Nonconformities

### 6-6-1 Nonconforming Uses and Noncomplying Structures

(1) The Town of Surry may permit the continued use, but not necessarily the expansion, of any structure in existence on the date of local program adoption. The Town of Surry may establish an administrative review procedure to waive or modify the criteria of the expansion of non-conforming principal structures, but not accessory structures on legal nonconforming lots or parcels provided that:

- a. There will be no net increase in nonpoint source pollutant load; and
- b. Any development or land disturbance exceeding an area of 2,500 square feet complies with all erosion and sediment control requirements of this part.

(2) This chapter shall not be construed to prevent the reconstruction of pre-existing structures within Chesapeake Bay Preservation Areas from occurring as a result of casualty loss unless otherwise restricted by local government ordinances.

## 6-7 EXEMPTIONS

### 6-7-1 Public Utilities, Railroads, Public Roads, and Facilities Exemptions

(1) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Section 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (Section 10.1-603.1 et. Seq. of the Code of Virginia, (ii) an erosion and sediment control plan and a storm water management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this chapter. The exemption of public roads is further conditioned on the following:

- a. Optimization of the road alignment and design, consistent with other applicable requirements, to prevent for otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality; and
- b. The Town of Surry may choose to exempt only those public roads constructed by the Virginia Department of Transportation.
- c. The Town of Surry may choose to exempt the construction and maintenance of applicable utilities and telecommunications lines that are owned and/or permitted by the Town.

#### 6-7-2 Exceptions for Silvicultural Activities

Silvicultural activities in Chesapeake Bay Preservation Areas are exempt from this chapter provided that silvicultural operations adhere to water quality protection procedures prescribed by the Virginia Department of Forestry in the January 1997 edition of "Forestry Best Management Practices for Water Quality in Virginia Technical Guide". The Virginia Department of Forestry will oversee and document installation of best management practices and will monitor in-stream impacts of forestry operations in Chesapeake Bay Preservation Areas.

## 6-8 EXCEPTIONS

### 6-8-1 Request for Exception

A request for an exception to the requirements of this Article shall be made in writing to the Chesapeake Bay Preservation Committee (CBPC). A public notice and a public hearing are required when considering exception requests. It shall identify the impacts of the proposed exception on water quality through the performance of a water quality impact assessment.

## 6-8-2 Exception Review

The CBPC shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose of this Article if the CBPC finds:

- (A) Granting the exception will not confer upon the applicant any special privileges that are denied by this Article to other property owners who are subject to its provisions and who are similarly situated.
- (B) The exception request is not based upon conditions or circumstances that are self-created or self-imposed, nor does the request arise from conditions or circumstances either permitted or non-conforming that are related to adjacent parcels;
- (C) The requested exception to the criteria is the minimum necessary to afford relief;
- (D) The exception request is in harmony with the purpose and intent of this Article, and is not injurious to the neighborhood or otherwise detrimental to the public welfare; and
- (E) Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality.
- (F) Other findings, as appropriate and required by the Town, are met.

The CBPC will consider written and oral input from town, county and state agencies and other interested parties, if solicited. An exception will become null and void twelve months from the date of issuance if, in the opinion of the CBPC, no substantial work has commenced.

## 6-9 VARIANCE APPEAL

6-9-1 If the CBPC cannot make the required findings or refuses to grant an exception, the applicant may appeal by submitting a written application for review to the Board of Zoning Appeals ("Board") in accordance with Article 9 of this Ordinance. The Board shall hear the appeal as soon as practical after receipt of a complete application accompanied by the water quality impact assessment and CBPC's written findings and rationale.

6-9-2 In rendering its decision, the Board shall consider the water quality impact assessment and the findings and rationale of CBPC and balance the hardship to the property owner with the purpose, intent, and objectives of this Article.

## ARTICLE 7 - NONCONFORMING USES

### 7-1 CONTINUATION

7-1-1 If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.

7-1-2 If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

7-1-3 If any nonconforming use (structure or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance. Intent to resume active operations shall, not affect the foregoing.

7-1-4 Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded.

7-1-5 All dwellings and their accessory structures erected prior to the enactment of this ordinance on January 12, 1992 or its amendment on May 1, 1985 shall be exempt as to area, setback, frontage and yard regulations if their present owners so desire.

### 7-2 PERMITS

7-2-1 All nonconforming uses shall be issued a zoning permit and a certificate of occupancy within sixty (60) days after the adoption of this ordinance.

7-2-2 The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, or such use of land established within thirty (30) days after the effective date of this ordinance.

### 7-3 REPAIRS AND MAINTENANCE

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures

wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### 7-4 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

#### 7-5 EXPANSION OR ENLARGEMENT

7-5-1 A nonconforming structure to be extended or enlarged shall conform to the provisions of this ordinance.

7-5-2 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

#### 7-6 NONCONFORMING LOTS

Any lot of record at the time of the adoption of this ordinance, which is less in area or width than the minimum required by this ordinance, may be used provided a showing of unnecessary and undue hardship would result if a variance is not granted from the Board of Zoning Appeals.

#### 7-7 RESTORATION OR REPLACEMENT

7-7-1 If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this ordinance.

7-7-2 If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five percent (75%) of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance.



- 7-7-3 When a conforming structure devoted to a nonconforming activity is damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.
- 7-7-4 The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

## ARTICLE 8 - GENERAL PROVISIONS

### 8-1 ZONING PERMITS

8-1-1 Buildings or structures shall be started, reconstructed, enlarged, or altered only after a zoning permit has been obtained from the Administrator.

8-1-2 The commission may request a review of the zoning permit approved by the Administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.

8-1-3 Each application for a zoning permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator may deem necessary for consideration of the application may be required. If the proposed building or use is in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Administrator. One (1) copy of the drawing shall be returned to the applicant with the permit.

### 8-2 CERTIFICATE OF OCCUPANCY

Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the Administrator. Such a permit shall state that the building or the proposed use, or the use of land, complies with the provisions of this ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

### 8-3 CONDITIONAL USE PERMIT

Where permitted by this ordinance, the location of animal hospitals, laundromats, machinery sales and service, wholesale and processing, and radio, telephone and television transmission or receiving stations or towers

more than 100 feet in height will need, in addition to the zoning permit and certificate of occupancy, a conditional use permit. These permits shall be subject to such conditions as the governing body deems necessary to carry out the intent of this ordinance.

#### 8-4 USES NOT PROVIDED FOR

If in any district established under this ordinance, a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission which shall make its recommendation to the Town Council within sixty (60) days. If the recommendation of the Planning Commission is approved by the Town Council, the ordinance shall be amended to list the use as a permitted use in the district, henceforth. Both the Planning Commission and Town Council shall hold a public hearing in connection with this after advertising according to Section 15.1-431, Code of Virginia.

#### 8-5 MINIMUM OFF-STREET PARKING

There shall be provided at the time of erection of any main building, or at the time any main building is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles, as follows:

- 8-5-1 For apartments, at least one and one-fourth (1 1/4) parking space for every dwelling unit.
- 8-5-2 For car wash (self service), at least five (5) standing or parking spaces for waiting vehicles for each wash rack.
- 8-5-3 For church, high school, college and university auditoriums, and for theaters, general auditoriums, stadiums, and other similar places of assembly, at least one (1) parking space for every five (5) fixed seats provided in said building.
- 8-5-4 For drive-in restaurants, at least one (1) parking space for each sixty (60) square feet of floor area.
- 8-5-5 For dry cleaners and laundries at least one (1) parking space for each two hundred (200) square feet of floor area.
- 8-5-6 For funeral homes, at least one (1) parking space for each five (5) seats, provided that there shall be not less than twenty (20) spaces for each chapel or parlor.

- 8-5-7 For furniture and home furnishing establishments, at least one (1) parking space for each four hundred (400) square feet of floor area.
- 8-5-8 For hospitals, at least one (1) parking space for each two (2) beds' capacity, including infants' cribs and children's beds,
- 8-5-9 For industrial establishments, there shall be provided one (1) parking space for each two (2) employees computed on the basis of maximum number of individuals employed within an eight (8) hour shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
- 8-5-10 For laundromats, at least one (1) parking space for every two (2) cleaning or laundry machines.
- 8-5-11 For libraries, art galleries, and museums, at least one (1) parking space for each five hundred (500) square feet of floor area.
- 8-5-12 For medical and dental clinics, at least ten (10) parking spaces. Three (3) additional, parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of three (3) doctors or dentists.
- 8-5-13 For office buildings, financial institutions, clubs and lodges, at least one (1) parking space for each three hundred (300) square feet of floor area.
- 8-5-14 In all residential districts there shall be provided, either in a private garage or on the lot, space for the parking of one (1) automobile for each dwelling unit in a new building, or each dwelling unit added in the case of the enlargement of an existing building.
- 8-5-15 For restaurants, at least one (1) parking space for each six (6) seats.
- 8-5-16 For retail stores selling directly to the public, one (1) parking space for each two hundred (200) square feet of retail floor space in the building.
- 8-5-17 For service stations, at least two (2) spaces for each lubrication, service, or wash bay plus one (1) parking space for each employee.

- 8-5-18 For tourist courts, tourist homes, lodging or rooming houses, motels, apartments, and apartment motels, at least one (1) parking space for each accommodation, individual sleeping or living unit.
- 8-5-19 For wholesale and processing, but not wholesale associated with retail uses, at least one (1) parking space for each one thousand (1,000) square feet of floor space, or one (1) parking space for each two (2) employees, whichever is the greater.
- 8-5-20 For bowling alleys, at least two (2) parking spaces for each alley.
- 8-5-21 For barber and beauty shops, at least two (2) parking spaces for each chair, plus one (1) parking space for each employee.
- 8-5-22 Any other commercial building not listed above and hereafter erected, converted, or structurally altered shall provide one (1) parking space for each one hundred (100) square feet of business floor space in the building.
- 8-5-23 Parking space as required in the foregoing shall be on the same lot with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as three hundred (300) feet, such distance to be measured along lines of public access to the property. Every parcel of land hereafter used as a public parking area shall be surfaced with asphalt or concrete. It shall have appropriate guards where needed, as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

#### 8-6 OFF-STREET LOADING

On the same premises with every building, structure, or part thereof, erected and occupied for uses involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading, and unloading services in order to avoid interference with public use of the streets and alleys.

#### 8-7 ZONING OF ANNEXED AREA

Any area annexed by the Town of Surry, after the effective date of this ordinance, shall immediately upon the effective date of such annexation be automatically classified as an "R-1" district until a zoning plan for

said area has been adopted by the Town Council. The Planning Commission shall prepare and present a zoning plan of the annexed area within six (6) months to the Town Council.

8-8 LANDSCAPE FEATURES

- 8-8-1 On any corner lot in a residential district, there shall be no planting, structure, fence, retaining wall, shrubbery, or obstruction to vision more than three (3) feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting said street lines twenty-five (25) feet from their intersection. On any corner lot in a commercial or industrial district, no building or obstruction shall be permitted between a height of one (1) foot and a height of ten (10) feet higher than the curb level within the triangle formed by the street right-of-way line and a line connecting said street lines five (5) feet from their intersection.
- 8-8-2 Trees, shrubbery, flowers, or plants shall not be permitted or maintained on any required front, side, or rear yard, if they interfere with the safe use of the public street or sidewalk. Said landscape features shall be permitted in any required front, side, or rear yard, provided they do not interfere with public safety and do not produce a hedge effect contrary to provisions of Article 8-8-1.
- 8-8-3 The setback and yard requirements of this ordinance shall not be deemed to prohibit any otherwise lawful fence or wall which is not more than four (4) feet high; provided, however, that a fence or wall along the rear lot line and along the side lot line to the rear of the required setback line may be erected to a height not exceeding seven (7) feet. This provision shall not be deemed to allow any wall or fence more than three (3) feet high as defined in Article 8-8-1. Also, this provision shall not be interpreted to prohibit any open mesh type fence enclosing any school or playground.

## ARTICLE 9 - PROVISIONS FOR APPEAL

### 9-1 BOARD OF ZONING APPEALS

- 9-1-1 A Board consisting of no more than seven and no less than five residents of the Town (always an odd number) shall be appointed by the Circuit Court of Surry County. Members of the Board may receive such compensation as may be authorized by the Town Council. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- 9-1-2 The term of office shall be for five (5) years, except that the original appointments shall be made for such terms that the term of at least one (1) member shall expire each year.
- 9-1-3 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.
- 9-1-4 The Board shall choose annually its own chairman and vice-chairman, who shall act in the absence of the chairman.

### 9-2 POWERS OF THE BOARD OF ZONING APPEALS

The Board of Zoning Appeals shall have the following powers and duties:

- 9-2-1 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.
- 9-2-2 To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary.
- 9-2-3 To authorize, upon appeal in specific cases, such variance from the terms of the ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of provisions will result in unnecessary hardship, provided that the spirit of the ordinance shall be observed and substantial justice done, as follows.

9-2-3.1 When a property owner can show that this property was acquired in good faith and where, by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property, or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

9-2-3.2 No such variance shall be authorized by the Board unless it finds:

- (a) that the strict application of the ordinance would produce undue hardship;
- (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- (c) that the authorization of such variance will not be of substantial detriment to adjacent property and
- (d) that the character of the district will not be changed by the granting of the variance.

9-2-3.3 No such variance shall be authorized except after notice and hearing, as required in Section 15.1-431 of the Code of Virginia, (1950), as amended.

9-2-3.4 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

9-2-3.5 In authorizing a variance, the Board may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

9-2-3.6 No provision of Section 9-2 shall be construed as granting the Board of Zoning Appeals the power to rezone property.



9-4            RULES AND REGULATIONS

9-4-1           The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

9-4-2           The meeting of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine.

9-4-3           The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

9-4-4           The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

9-4-5           All meetings of the Board shall be open to the public.

9-4-6           A quorum shall be a majority of the members of the Board.

9-4-7           A favorable vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter which the Board is required to pass.

9-5            APPEAL TO THE BOARD OF ZONING APPEALS

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds therefore. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

9-6 APPEAL PROCEDURE

9-6-1 Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual official, department, or agency concerned, if any.

9-6-2 Appeals requiring an advertised public hearing shall be accompanied by a certified check for twenty dollars (\$20.00) payable to the Treasurer, Town of Surry.

9-7 PUBLIC HEARING

The Board shall fix a reasonable time for the hearing of an application or appeals, give public notice thereof, as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of an administrative officer, or may decide in favor of the applicant on any matter upon which it is required to pass under the ordinance, or may affect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The chairman of the Board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

9 - 8 DECISION OF BOARD OF ZONING APPEALS

Any person or persons jointly or severally aggrieved by any taxpayer or any officer, department, board, or bureau of the municipality, may present to the Surry County Circuit Court a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision of the Board.

9-8-1 Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the municipality, may present to the Surry County Circuit

Court a petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision of the Board

9-8-2 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and

served upon the realtor's attorney, which shall not be less than ten (10) days and may be

extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may, on application, on notice to the board, and on due cause shown, grant a restraining order.

- 9-8-3 The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof, as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 9-8-4 If, upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- 9-8-5 Costs shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

## ARTICLE 10 - VIOLATION AND PENALTY

- 10-1 All departments, officials, and public employees of the Town of Surry which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.
- 10-2 Any person, firm, or corporation, whether as principal, agent, employed, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be fined up to two hundred fifty dollars (\$250.00). Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed, continued, or permitted by such persons, firms, or corporations, and shall be punishable as herein provided.

## ARTICLE 11 AMENDMENTS

- 11-1 The regulations, restrictions, and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by a favorable majority of votes of the governing body, provided:
- 11-1-1 That a property owner may petition the governing body to have their property rezoned by submitting their request in writing with payment of twenty dollars (\$20.00) payable to the Treasurer, Town of Surry for advertising and administration.
- 11-1-2 That the Planning Commission and Town Council hold a public hearing where the parties of interest and citizens shall have an opportunity to be heard.
- 11-1-3 That the public hearing notice shall specify the time and place of such hearing by publication once a week for two successive weeks in some newspaper having general circulation in the immediate area. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than six (6) nor more than twenty-one (21) days after final publication.
- 11-1-4 That no zoning amendment can be enacted unless the Town Council has referred the proposed amendment to the Planning Commission for a report. Failure of the commission to report in ninety (90) days or such shorter period as prescribed by the Town Council shall be deemed approval.
- 11-1-5 That substantially the same amendment when disapproved will not be reconsidered for one year.

## ARTICLE 12 - ADMINISTRATION AND INTERPRETATION

12-1           This ordinance shall be enforced by the Administrator who shall be appointed by Town Council. The Administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the Town Council.

12-2           Nothing contained herein shall require any change in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this ordinance. However, such construction must commence thirty (30) days after this ordinance becomes effective. If construction is discontinued for a period of six (6) months or more, further construction shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

### 12-3           INTERPRETATION

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

12-3-1       Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries as the case may be.

12-3-2       Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction; and, in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

12-3-3       If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

### 12-4           SEVERABILITY

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

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